

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,

ORDER

-against-

11-CR-633 (ENV)

FRANK SMITH,

Defendant.
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ROANNE L. MANN, CHIEF UNITED STATES MAGISTRATE JUDGE:

The government's letter-motion dated June 21, 2017, which "seeks the court's reconsideration of the scheduling of a preliminary hearing" in connection with a violation-of-supervised release charge,¹ is denied for the following reasons: First, at a proceeding held on June 15, 2017, Judge Vitaliano, the District Judge assigned to this case, directed that the parties appear for the previously scheduled preliminary hearing, see Minute Entry (June 15, 2017), which has been referred to the duty magistrate judge, see Order (June 21, 2017), and is scheduled to occur tomorrow. The undersigned magistrate judge has no authority to set aside an order of a District Judge.

In any event, a motion for reconsideration is not a vehicle for advancing an argument that was never even presented to the Court at the time the preliminary hearing was scheduled. See, e.g., United States v. Gross, No. 98 CR 0159 SJ, 2002 WL 32096592, at *4 (E.D.N.Y. Dec. 5, 2002) ("A motion for reconsideration cannot advance a new argument, as it is deemed waived[.]").²

¹ For some reason, the government has not docketed its motion into the electronic court file.

² Indeed, the Court has no recollection of the government's having voiced any objection to the scheduling of the preliminary hearing.

The government's motion is denied.

SO ORDERED.

**Dated: Brooklyn, New York
June 21, 2017**

USMJ ROANNE MANN

/s/

**ROANNE L. MANN
CHIEF UNITED STATES MAGISTRATE JUDGE**